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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION  
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**In the Matter of**

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**PR Docket No. 92-257**

**Amendment of the**

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**RM-7956**

**Commission's Rules**

)

**RM-8031**

**Concerning Maritime**

)

**RM-8352**

**Communications**

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**REPLY COMMENTS**

**OF**

**WJG MarITEL CORPORATION**

Russell H. Fox  
Susan H.R. Jones  
Gardner, Carton & Douglas  
1301 K Street, N.W.  
Washington, D.C. 20005  
tel.# (202) 408-7100

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## Summary

WJG MariTEL Corp. (“MariTEL”) generally supports the Commission’s proposals in this proceeding and applauds the Commission’s efforts to introduce greater operational flexibility and to reduce regulatory burdens in the maritime service.

While supportive of digital selective calling protocols for emergency services, MariTEL urges the Commission to maintain open protocols for public correspondence and other purposes. MariTEL opposes the imposition of a single, restrictive signaling standard for non-distress purposes. Instead the marketplace should determine which non-emergency protocol is utilized. Open protocols for non-emergency communications are consistent with the Commission’s treatment of other CMRS services.

MariTEL supports the Commission’s proposal to allow maritime service providers to serve vehicles on a subsidiary basis. MariTEL also supports the lifting of channel loading requirements. Alternative enforcement mechanisms, such as mandatory construction deadlines, are a more efficient way to address the problem of “warehousing.” The Commission is rapidly moving away from loading requirements in other CMRS services.

MariTEL supports intra-service sharing within the maritime band, and agrees with the approach suggested by the U.S. Coast Guard -- to allow such sharing, provided that local commercial requirements are met if necessary. In addition, the Commission’s proposal to allow maritime users to share frequencies with certain land mobile users should be adopted, employing the proposed interference standards. Commenters opposing this sharing with the land mobile services have not demonstrated that these interference protections are inadequate. Finally, MariTEL urges the Commission to move rapidly toward deployment of narrowband channelization in the maritime services.

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**REPLY COMMENTS**

**OF**

**WJG MariTEL CORPORATION**

WJG MariTEL Corp. ("MariTEL"), pursuant to the provisions of Section 1.415 of the Rules and Regulations of the Federal Communications Commission's ("FCC" or the "Commission"), 47 C.F.R. § 1.415, by its attorneys, hereby submits its Reply Comments responsive to the Comments submitted in the *Further Notice of Proposed Rule Making* ("FNPRM") in the above-referenced proceeding.<sup>1/</sup> The FNPRM proposed the adoption of regulations that will assist maritime telecommunications service providers in offering services to customers that would be competitive with other commercial mobile radio service ("CMRS") providers. Those regulations would generally reduce regulatory burdens and provide licensees with greater operational flexibility.

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<sup>1/</sup> Further Notice of Proposed Rulemaking, In the Matter of Amendment of the Commission's Rules Concerning Maritime Communications, PR Docket No. 92-257, 10 FCC Rcd 8419 (1995) ("FNPRM").

## **I. INTRODUCTION**

MariTEL is one of the largest providers of public coast station service in United States. The proposals contained in the FNPRM will have a direct and positive impact upon public coast station licensing and operations. Accordingly, MariTEL submitted Comments in this proceeding on September 22, 1995, generally supporting the Commission's proposals. In particular, MariTEL supported: 1) the FCC's efforts to implement digital selective calling ("DSC") capability for emergency communications purposes; 2) the Commission's proposal to permit selective calling via any "open" protocol, rather than a mandated universal standard; 3) the proposal to permit automatic interconnection to the public switched telephone network ("PSTN") using open protocols; 4) the proposal to permit public coast stations to serve vehicles on land on a secondary basis; 5) the Commission's proposal to eliminate current channel loading requirements; 6) the FCC plan to allow intra service sharing among maritime services; 7) trunking in the maritime services ; and 8) the discussed use of 12.5 kHz channelization of VHF public correspondence frequencies.

Several other parties submitted initial comments in this proceeding. The majority of those parties took positions consistent with those expressed by MariTEL. Notably, the U.S. Coast Guard ("Coast Guard"), the agency charged with safeguarding maritime operations, expressed positions wholly consistent with MariTEL. Similarly, the Radio Technical Commission for Maritime Services ("RTCM"), a not-for-profit association expert in the needs and technologies of the maritime communications industry, also submitted comments that were consistent with MariTEL's views. Other parties expressed views that were inconsistent with MariTEL's. As MariTEL demonstrates below, those views are also inconsistent with FCC policy and contrary to the public interest. Because

MariTEL wishes to point out the flaws in the comments of these parties, and to note the sentiments consistent with its own comments, MariTEL appreciates the opportunity to submit the following Reply Comments.

## **II. REPLY COMMENTS**

### **A. Digital Selective Calling for “GMDSS” Purposes.**

MariTEL, like many other commenting parties, supported requiring minimum DSC capabilities for inclusion in all maritime VHF transmitters. MariTEL continues to adhere to this position and endorses the suggestions offered by the Coast Guard and RTCM as to the implementation of minimum DSC standards. Despite their support of minimum DSC for safety purposes, however, neither the Coast Guard nor RTCM recommended DSC for public correspondence purposes. Instead, RTCM specifically recommends that there be no mandatory protocol for interconnection.<sup>2/</sup> Other commenting parties agreed. For example, Globe Wireless (“Globe”) states that “DSC is not the most efficient way to minimize connect time or to increase spectrum efficiency. Commercial service providers, on a worldwide basis, are not planning to use DSC for commercial communications purposes.” [emphasis added] Globe also points out that the use of DSC protocols for non-distress communications “would be too restrictive.”<sup>3/</sup> Similarly, Malloy Communications urges the Commission to permit “newer and more efficient modes to be used in the commercial maritime field.”<sup>4/</sup>

Other parties suggest implementing DSC standards for other than safety purposes. The premises upon which those comments are based are invalid, contrary to Commission policy and the public interest.

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<sup>2/</sup> Comments of RTCM at 5.

<sup>3/</sup> Comments of Globe at 2.

<sup>4/</sup> Comments of Malloy Communications at 1.

Mobile Marine Radio (“MMR”) states that “DSC is the only standardized maritime selective calling system or procedure. Ross Engineering has demonstrated that DSC can be implemented in a technologically and cost efficient manner.”<sup>5/</sup> MMR further argues that users are “entitled to a minimal common ground protocol which provides interoperability anywhere along the coastlines and river networks in which they may be operating.”<sup>6/</sup>

MMR is incorrect as a matter of fact and policy. As Globe pointed out, operators have not endorsed DSC for commercial operations.<sup>7/</sup> Nor, except in limited instances, have manufacturers expressed support for DSC equipped radios. It is inaccurate to state, therefore, that DSC is the only standardized selective calling procedure for commercial operations. DSC may be a standard for distress calling. MariTEL and others support its use in that context. However, standardized use of DSC for distress purposes hardly means that DSC has also become a standard for commercial purposes. Further, MariTEL is unaware of the claimed demonstration of Ross Engineering that DSC can be implemented in a technologically and cost efficient manner. Even if true, that claim should not mandate that DSC become a standard protocol for other than safety communications. The use of DSC by one manufacturer in a technologically and cost effective manner should not result in the imposition of the technology on all users. Such an imposition would inhibit the development or use of alternative selective calling capabilities which could be less expensive, even more efficient, or have additional service features uniquely appropriate for public coast station operation.

MMR is also wrong in its assertion that users are entitled to a minimal common ground protocol which provides interoperability. There is, and should be, in the Maritime context, a sharp distinction

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<sup>5/</sup> Comments of MMR at 3-4.

<sup>6/</sup> Id. at 4.

<sup>7/</sup> Comments of Globe at 2.

between *distress* communications, where DSC minimum standards may be necessary to ensure the safety of life and property at sea, and *non-distress* or commercial communications, where the most efficient and most service-oriented signaling capability should be available to support a competitive mobile communications marketplace. For distress communications, it is important that there be a signaling standard and MariTEL supports the adoption of that standard. However, the marketplace is the appropriate arbiter for signaling capabilities on public correspondence channels. As MariTEL pointed out in its initial comments, when faced with the question of whether to impose interoperability for personal communications services (“PCS”), the FCC declined to do so. There is no reason that VHF public correspondence, which like PCS, is offered as a CMRS, should be treated any differently. Uniform standards imposed by regulation could inhibit technical innovation as well as competition within the marketplace. MariTEL thus urges the Commission to adopt its proposal to permit “open” protocols rather than universal standards.

Other commenting parties also fail to offer sound reasons for requiring DSC for other than safety communications. Ross Engineering (“Ross”) states that it “is concerned from a marine safety standpoint that allowing automation on an open protocol basis will make full establishment and operation of GMDSS very difficult.”<sup>8/</sup> Ross offers no basis for its concern. In fact, MariTEL has been working with a variety of equipment manufacturers, discussing the production of equipment that would include minimum DSC capabilities and non-DSC signaling protocols for commercial purposes. In no case will the inclusion of non-DSC protocols for commercial operations impede the use of DSC signaling for safety purposes. Ross’ concerns are, therefore, meritless.

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<sup>8/</sup> Comments of Ross at 2.

OWA, Inc. (“OWA”) similarly confuses the use of DSC for safety purposes with the mandatory use of DSC for commercial operations. It states that “the use of various and different protocols for interconnection to the PSTN will adversely effect [sic] safety signaling. . . .”<sup>2/</sup> OWA offers no support for its contention. There is no evidence to suggest that radios with minimum DSC capabilities cannot be produced that incorporate other signaling protocols for interconnection. There is also no evidence that such radios would be any more expensive than radios equipped with full DSC capabilities. To the contrary, radios with minimum DSC capabilities for safety purposes and another signaling protocol for interconnection offers users the best of all possibilities: standardized safety communications with the most advanced commercial operations.

The use of DSC standards for anything but distress communications will unnecessarily delay the introduction of automatic interconnection and other advanced features of public coast station operations. The adoption of mandatory DSC standards for safety purposes has been a lengthy process. The promulgation of additional standards, necessary for DSC use in automatic interconnection and other purposes would likely require additional time. The public coast station industry can ill afford such delays in offering services to the public. The use of any open protocol will, therefore, result in service to the public faster.

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<sup>2/</sup> Comments of OWA at 2.

## **B. Automatic Interconnection**

MariTEL's comments strongly supported the FCC's proposal to permit automatic interconnection to the PSTN by any public coast station operator, utilizing open protocols. Such regulatory flexibility, if adopted, will permit the public coast station industry to compete in the CMRS marketplace. Both Globe and RTCM, like MariTEL, support the FCC's proposals regarding automatic interconnection without adoption of a protocols to do so.

Although it supports the Commission's proposals to permit automatic interconnection, MMR expresses concern regarding the potential for "skip" interference from systems using pre-recorded messages during operator set-up of a call.<sup>10/</sup> MariTEL agrees that operators must remain vigilant to abnormal conditions that produce skip interference. MariTEL is committed to such vigilance and it, like MMR, would seek operating accommodations in an effort to assure that all operators maintain some degree of operability during skip conditions. This accommodation effort should be conducted among station operators without government intervention. MariTEL invites any interested party to address this matter with it in order to produce the accommodations referenced by MMR.

## **C. Permissible Communications**

### **1. Land Mobile Service on a Subsidiary Basis**

Commenters in this proceeding uniformly support the Commission's proposal to permit public coast stations and providers of Automated Maritime Telecommunications System ("AMTS") service to serve vehicles on land on a subsidiary basis.<sup>11/</sup> Such expanded service capabilities will generally improve the capability of public coast station operators to provide more competitive communications

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<sup>10/</sup> Comments of MMR at 9.

<sup>11/</sup> See generally Comments of American Commercial Barge Line Company and Waterway Communications Systems, Inc. ("Watercom"); Globe Wireless; Paging Systems, Inc.; and RTCM.

services and thus serves the public interest. MariTEL thus joins these commenters in supporting the Commission's proposal.

MariTEL urges the Commission, however, to clarify that such auxiliary use of maritime frequencies on a subsidiary basis may occur without limitation as to the number of land vehicles, or seasonal traffic patterns. Current technology allows that calls originating from maritime radios be given priority over calls originating from land-based vehicles. Accordingly, technology, rather than artificial regulatory intervention, can ensure that land-based customers be served only on a subsidiary basis.

## 2. Channel Loading

In its Comments, MariTEL urged the Commission to eliminate current channel loading requirements for public coast station operators wishing to add multiple channels to a station. MariTEL strongly disagrees with commenters who assert that such a relaxation of regulatory burden is unnecessary.<sup>12/</sup> To the contrary, MariTEL asserts that the current channel loading requirements themselves are unnecessary, and are also a direct impediment to effective competition by public coast station operators in the mobile communications marketplace.

MMR states that it "fails to understand the premise that the additional channel justification requirement is out of date and based upon an antiquated concept."<sup>13/</sup> MMR's lack of understanding is plainly based upon its erroneous interpretation of, among others, the regulations governing the specialized mobile radio ("SMR") industry, and its refusal to recognize public coast stations as competitors to other CMRS services. Contrary to MMR's assertions, there are no channel loading requirements for SMR or paging operators. Instead, these operators are only required to demonstrate that

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<sup>12/</sup> See Comments of Watercom at 4; see also Comments of MMR at 15.

<sup>13/</sup> Comments of MMR at 15.

they have constructed their facilities in order to apply for additional channels in the same geographic area.<sup>14/</sup>

In fact, throughout the CMRS field, the Commission has moved away from loading requirements in favor of construction and coverage requirements. The same rationale ought to apply in the public coast station context. Current channel loading requirements, which delay a public coast station operator from applying for additional channels without a burdensome demonstration of loading, are not necessary to protect frequencies from being “warehoused.” Current regulatory safeguards, such as construction rules which require that a licensee construct and place a station in operation within one (1) year of initial licensing,<sup>15/</sup> adequately protect against under-utilization of frequency assignments.

The current loading requirements have, instead, proven contrary to the public interest. As a result of those rules, the majority of the public coast station frequencies are unlicensed. In the absence of those loading rules, public coast station operators, like MariTEL, would be able to secure authorizations for multiple channels and offer services such as interconnection and trunking, that may not be offered today, because licensees are effectively restricted to a single channel in an area. Yet, such services cannot be offered today, and the spectrum remains unused.

Watercom similarly misses the point. It asks: “Under what circumstances would a licensee procure additional channel authority and invest the capital for the required operating equipment if the licensee could not justify the investment in terms of channel utilization or congestion?”<sup>16/</sup> These are determinations that should be made by commercial operators without arbitrary government limitation. If

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<sup>14/</sup> Only incumbent 900 MHz SMR licensees are still subject to loading requirements. However, if these incumbent licensees obtain an authorization for service throughout the Major Trading Area (“MTA”) covered by their license, loading requirements will not apply to them either.

<sup>15/</sup> 47 C.F.R. § 80.49 (1995).

<sup>16/</sup> Comments of Watercom at 4.

a licensee believes that it can justify additional channels based upon projected demand, the government should not impede its business plans. If a licensee is willing to make the capital commitment to construct facilities, it has every incentive to load those channels as quickly and as intensely as possible. Conversely, a licensee's failure to realize its business goals will not make the spectrum unavailable. As noted above, after a brief construction period, those channels will be available again for others.

Not only are current channel loading rules unnecessary from a regulatory standpoint, but they impede competition. No other two-way CMRS category allows licensees access to only one channel to service customers. SMR operators, and particularly wide area SMR operators, which will be licensed shortly, may be authorized for potentially hundreds of channels. Similarly, cellular and PCS operators have significantly more capacity than public coast station operators. Yet, as the Commission has recognized, these entities are taking customers from public coast station licensees. In order to compete effectively and in order to achieve regulatory parity, as mandated by the Communications Act, public coast station operators must have access to a greater number of channels than they do now.

#### **D. Intra-Service Sharing**

MariTEL's comments supported broad intra-service sharing across maritime services and channels. MariTEL noted that such sharing has been successful in other mobile communications services, and promotes the most intensive use of spectrum. The Coast Guard generally supports the Commission's proposal for intra-service sharing as well. It points out that if there are local requirements that mandate reservation of channels for commercial purposes, such determinations should be made by local FCC field offices, which would be able to reserve one or more channels in those regions.<sup>17/</sup>

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<sup>17/</sup> Comments of Coast Guard at 4.

The American Waterways Operators (“Operators”) and Watercom propose an alternative to the FCC’s proposal. They suggest that individual channels may be designated “commercial/non-commercial” in a local or regional area with due notice to the local maritime community and with the recommendation of the relevant FCC field office and the Compliance and Information Bureau.<sup>18/</sup> MariTEL supports the Coast Guard approach. Sharing should be the norm, not the exception. While there may be circumstances where sharing is not appropriate, those circumstances should be determined on a case by case basis.

**E. Maritime Mobile Sharing of Private Land Mobile Frequencies**

The Commission proposed to allow public coast stations to share channels from the railroad radio service and the motor carrier radio service. Sharing would be permitted when the public coast stations are located at least 80 km (50 miles) from co-channel motor carrier base stations and when the public coast stations meet the minimum separation from co-channel railroad base stations. MariTEL supports the Coast Guard, RTCM, MMR and Watercom, all of whom endorse the Commission’s proposal.

Predictably, both the American Trucking Associations (“ATA”) and the Association of American Railroads (“AAR”) object to the Commission’s proposal. ATA’s objection amounts to little more than a “not in my back yard” reaction, with no technical justification for its position. AAR offers a more complete assessment of the potential for interference to railroad operations.

MariTEL agrees that the functions served by stations in the railroad and motor carrier radio services help protect the safety of life and property and that the Commission should take no action to unnecessarily compromise that protective function. Public coast stations, although operated as

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<sup>18/</sup> Comments of Watercom at 6-7.

commercial entities, also serve an important safety function for boaters. The Commission has already permitted land mobile users to share public coast station channels. Presumably, whatever measures the Commission adopted to ensure the viability of public coast station correspondence, because of its public safety component, should be sufficient to protect land mobile operations. For example, AAR points out that ducting can produce interference on co-channel operations much further away than the Commission would otherwise allow co-channel operations to occur.<sup>19/</sup> MariTEL fails to understand why interference to motor carrier and railroad operations should be more carefully avoided than interference to public coast station operations. Accordingly, MariTEL suggests that the Commission adopt interference standards in this proceeding that are identical to those adopted in the First Report and Order.<sup>20/</sup>

The potential use of 12.5 kHz channelization in either the land mobile or maritime services should not impede the proposed sharing. Maritime users will still have an incentive to employ 12.5 kHz channelization, even if they are permitted to share land mobile channels. As noted above, there is an enormous disparity in the number of channels available to public coast station operators and other CMRS providers. Channel splitting will make only a marginal difference in bridging that gap. In order to be competitive with other CMRS providers, public coast station operators will also require the additional capacity they may gain from the shared use of private land mobile spectrum.

AAR also claims that the Commission's proposal will disrupt railroads' transition to narrowband technology.<sup>21/</sup> MariTEL disagrees. In this proceeding, the Commission proposes interference criteria for

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<sup>19/</sup> Comments of AAR at 9.

<sup>20/</sup> MariTEL does not object, as AAR suggests, changes to the Commission's proposals to take into account mobile to mobile communications, as well as base to mobile communications. However, protection of all channels by the same interference criteria as adopted in the First Report and Order may still make additional channels available for public coast station operations.

<sup>21/</sup> Comments of AAR at 11.

the protection of 25 kHz channels now employed by railroad and motor carrier licensees. MariTEL presumes that such protection would extend to any additional 12.5 kHz channels created from existing 25 kHz frequencies. The FCC's "refarming" proposal does not envision the allocation of additional spectrum to any of the private land mobile services. Accordingly, the interference criteria applicable to today's 25 kHz channels should be sufficient to protect any 12.5 kHz channels created in the future.

#### **F. Use of Narrowband Channels**

MariTEL's comments urged the Commission to proceed expeditiously in addressing the use of 12.5 kHz channels. Other commenting parties have noted that the subject of narrowband operations in the maritime services has been the subject of international discussion and will be an agenda item at the 1997 World Radiocommunication Conference ("WRC-97").<sup>22/</sup> Like the Coast Guard, MariTEL recommends that the Commission support narrowbanding efforts at WRC-97 and initiate a rule making proceeding immediately thereafter, in order to incorporate the use of narrowband channels in the regulations.

In the interim, MariTEL urges the Commission to permit, on a voluntary basis, the use of 12.5 or even 6.25 kHz channelization. As MMR suggests, the use of such channelization should be subject to the requirement that public coast station operators render service to vessels operating in accordance with current international standards.<sup>23/</sup> So long as public coast operators can demonstrate that they meet this criteria, there is no reason that they should not be able to use the most efficient technology available. As MMR notes, this technology is available today and would promote more intensive spectrum utilization.

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<sup>22/</sup> See e.g., Comments of AAR at n. 20.

<sup>23/</sup> Comments of MMR at 18.

### III. CONCLUSIONS

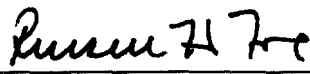
MariTEL again strongly supports the Commission's efforts to review the public coast station regulatory climate to both conform maritime radio service rules to standards of regulatory parity with other CMRS providers, and to relieve the public coast station industry of unnecessary and antiquated regulatory burdens which have, heretofore, impeded its ability to compete effectively in the mobile communications marketplace.

MariTEL urges the Commission to consider its own proposals contained in its comments and reply comments submitted, and proceed with this rulemaking expeditiously. Time is of the essence in adopting the changes proposed with this proceeding. The public coast station industry depends upon these changes to ensure its continued viability and existence as an option in the current mobile communications marketplace.

**WHEREFORE**, for the reasons stated herein, MariTEL urges the Commission to adopt amendments to its rules consistent with the arguments and opinions expressed herein.

Respectfully submitted,

**WJG MariTEL Corporation**

By:   
Russell H. Fox  
Susan H.R. Jones  
Gardner, Carton & Douglas  
1301 K Street, N.W.  
Washington, D.C. 20005  
tel.# (202) 408-7100

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